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U.S. Department of Transportation Dockets
Docket No. FAA-2003 -15085
400 Seventh Street, SW
Room Plaza 401
Washington, DC 20591

September 5, 2003

Re: NPRM on Hazardous Materials Training Requirements

ASTAR Air Cargo, Inc. ("ASTAR," formerly DHL Airways, Inc.) hereby submits these comments to the Notice of Proposed Rulemaking (the "NPRM") issued by the Federal Aviation Administration ("FAA") on May 8, 2003 (68 FR 24810).

ASTAR, as an ATA member carrier contributed to and agrees with the comments submitted on behalf of its member carriers by the ATA. These comments are in addition to those submitted therein.

ASTAR agrees that safety in the transportation of hazardous materials is essential, and supports training rules that are effectively targeted to further this objective. We do not feel, however, that the current proposals will have the desired effect.

One intention of the NPRM appears to be to make regulatory the training requirements of AC121-21B and formalize an acceptable standard for all training programs. 49 CFR 172.704 currently requires 'function specific' training. The table in proposed Appendix N implies that the function specific aspect of the HMR is defined for users in the table itself. It also implies that the Air Carrier Captain will require the same 'Acceptance and Handling' training that the freight counter clerk who accepts packages will. It is suggested that language be changed to conduct function specific training as stated in HMR 172.704(2), as they relate to the modules in proposed Appendix N. In this example, the training the captain receives need not be as thorough as that required by the acceptance agent at the freight counter.

The language in Appendix N that we suggest should include the statement "Each Hazmat employee must be provided only that function specific training concerning each of the areas of training which are specifically applicable to the operation the employee performs." This language is nearly identical to that of Title 49 and would allow operators to tailor the training as necessary. In a containerized air carrier operation there is no safety benefit or need to train the flight crew to accept packages, yet smaller operators might expect its crews to do so and therefore must thoroughly train them in acceptance.

As an alternative to this suggestion, we recommend that the proposed Appendix N be completely removed and placed in a revised version of AC121-21B, including the language we have suggested. The level of detail of Appendix N is not found elsewhere in FAR Part 121, yet a high level of standardization is maintained throughout industry the areas of crewmember training. It would be to the FAA's benefit to place this language in the advisory circular where it would be easier to change if need be.

FAR Part 121 already contains §§121.801 – 804 (Subpart X--Emergency Medical Equipment and Training). We assume this is a clerical error that would be corrected in the final draft.

Proposed §121.804 Hazardous Materials Training Records is too burdensome and does not support the objectives of the NPRM. Specifically;

Proposed §121.804(a) requires airman records to be maintained for 3 years. Since training is required annually, it is recommended that the initial training record and the most recent recurrent training record only be kept (the recurrent record being kept for a period not to exceed 14 months). This is in agreement with the guidance in FAA Order 8400.10 Volume 3, Chapter 11, Section 3. Job Aid 3.11.3.1.

§121.804(b) Location of records. The requirements of this proposed section are not only difficult to administer but in contrast with existing regulatory guidance found in §121.683, which states in pertinent part:

“(a) Each certificate holder shall--

(1) Maintain current records of each crewmember and each aircraft dispatcher (domestic and flag operations only) that show whether the crewmember or aircraft dispatcher complies with the applicable sections of this chapter, including, but not limited to, proficiency and route checks, airplane and route qualifications, training, any required physical examinations, flight, duty, and rest time records; and

(2) Record each action taken concerning the release from employment or physical or professional disqualification of any flight crewmember or aircraft dispatcher (domestic and flag operations only) and keep the record for at least six months thereafter.

(b) Each certificate holder conducting supplemental operations shall maintain the records required by paragraph (a) of this section **at its principal base of operations**, or at another location used by it and approved by the Administrator.

(c) Computer record systems approved by the Administrator may be used in complying with the requirements of paragraph (a) of this section.”

While an operator might seek approval to maintain Hazmat training records at another location (for instance, its principal base of operations) maintaining such records for those carriers who might not seek approval would require establishing another location for pilot training records for those domiciled at an outlying station. Even if the carrier elects to seek approval to maintain its hazmat training records at its principal base, it is an unnecessary FAA approval placing an additional burden on the FAA and the carriers. This, plus the fact that the training record requirement must be met by paper means (statement required by §121.804(c)(3)) is inadequate and exposes the carrier to greater liability in training record errors. Historically, paper training records have been prone to human error which can lead to inadvertent gaps in training.

This is the only certification of training in FAR Part 121 that must be made in duplicate by *two separate individuals*; the instructor (proposed §121.804(c)(4)(v)) and the “Director of Training” (proposed §121.804(c)(3)).

ASTAR sees the proposed regulation as a *perceived convenience* (not an actual convenience) for the security inspector and a detriment to air carrier safety. This redundancy is not necessary.

Proposed §121.804(c) would require carriers to maintain data that is unnecessary and would require huge changes to their existing computer based record keeping systems. While these changes might appear to be minor, the complexity of the relational databases used would require extensive programming changes. Specifically, by sub-paragraph:

No change: Person’s name and function are already required for Part 121 records. The dates of each training course – if the curriculum segment is part of a larger curriculum current FAA guidance allows carriers to record the completion of the curriculum (such as Initial New Hire, or Captain Upgrade) rather than each segment (such as Hazardous Materials). Some carriers may need to change their computer record keeping programs to make this accommodation. This is not necessary as the information required to be kept in the record is kept in the approved training syllabus in the operator’s FAA approved Training Manual. This is a redundant record the cost of which is wasteful.

Conflict with other FAR’s: Paragraph 3 of this section would require the statement to be signed by a person designated by the Director of Training, while FAR §121.401(c) states: “(c) Each instructor, supervisor, or check airman who is responsible for a particular ground training subject, segment of flight training, course of training, flight check, or competence check under this part shall certify as to the proficiency and knowledge of the crewmember, aircraft dispatcher, flight instructor, or check airman concerned upon completion of that training or check. That certification shall be made a part of the crewmember’s or dispatcher’s record. When the certification required by this paragraph is made by an entry in a computerized recordkeeping system, the certifying instructor, supervisor, or check airman must be identified with that entry. However, the signature of the certifying instructor, supervisor, or check airman is not required for computerized entries.”

It must be noted that the word ‘Supervisor’ in this text refers to an Evaluator charged with evaluating the performance of Dispatchers for an air carrier and it does not refer to a person in the context of a manager as the Director of Training in the proposed rule.

Current guidance requires the instructor to certify the training record and allows operators using computerized record keeping systems the ability to make an “Electronic Signature” which the proposed rule does NOT.

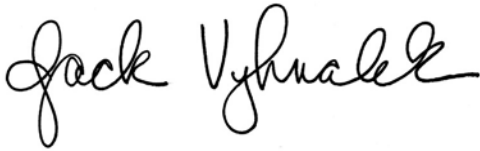
The description of the training course required by paragraph 4 is redundant and not required. A full description of the training program is contained in the FAA approved Training Manual. This description includes all of the sub-paragraphs in proposed paragraph 4. Sub-paragraph 4) iv would require carriers to maintain classroom attendance rosters of training classes. We find this completely unnecessary since FAR §121.401(c) already requires a certification of the airman’s completion of the class. This is a redundant record that would add additional cost to the industry with absolutely no benefit.

We find paragraph d ineffective for air carrier pilot operations. While this latitude appears in the HMR it is not permissible under the current FARs for crewmembers. The cost of bringing a crewmember back to training for Hazmat training would be greater than the advantage of letting him go through the extensive pilot training program required of crewmembers and return at a later date so that they may operate under the supervision of another.

Summary of Proposed §121.804 Consideration

The record keeping requirements of this section will not improve safety or the recordkeeping accuracy for persons already covered under FAR 121 subparts N and O. The requirements are far inferior to those already in existence for air carriers and the cost of implementation would be great. It is strongly recommended that these requirements be restricted to personnel not covered by FAR Part 121 Subparts N and O (or stricken completely). It is also recommended that the current recordkeeping requirements for pilots, who are among the most highly trained persons of any industry, be adopted for other personnel covered by this regulation. Adequate current regulatory guidance exists to ensure the completion of training and safety of persons qualified in accordance with FAR Part 121 subparts N and O without exposing the industry to human error and potential safety pitfalls.

These comments are hereby submitted on behalf of ASTAR Air Cargo, Inc. by

A handwritten signature in black ink that reads "Jack Vyhnalek". The signature is fluid and cursive, with the first name "Jack" and last name "Vyhnalek" clearly distinguishable.

Jack Vyhnalek
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AQP Program Supervisor